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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/842,935	04/26/2001	Michael Kozhukh	INTL-0561-US (P11332)	1185

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Timothy N. Trop  
TROP, PRUNER & HU, P.C.  
STE 100  
8554 KATY FWY  
HOUSTON, TX 77024-1805

EXAMINER

CHANG, AUDREY Y

ART UNIT PAPER NUMBER

2872

DATE MAILED: 03/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/842,935

Applicant(s)

KOZHUKH, MICHAEL

Examiner

Audrey Y. Chang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 8-11, 13, 16, 17 and 23-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 8-11, 16, 17 and 23-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Remark***

- This Office Action is in response to applicant's response filed on January 28, 2004, which has been entered.
- The applicant has filed no amendment to the claims.
- Claims 1-3, 8-11, 13, 16-17, and 23-30 remain pending in this application.

### ***Claim Objections***

**1. Claims 9 is objected to because of the following informalities:**

(1) The phrase "depositing a silver on a semiconductor" recited in claim 9 is confusing and indefinite since it is not clear how does the "semiconductor" relate to other layers recited in the based claim. **Appropriate correction is required.**

### ***Claim Rejections - 35 USC § 103***

**2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:**

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**3. Claims 1-3, and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over the patent issued to Li et al (PN. 5,619,059) in view of the patent issued to Oyama et al (PN. 6,572,990).**

***The reasons for rejection are set forth in the previous Office Action dated November 25, 2003.***

**4. Claims 8-10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the patent issued to Li et al in view of the patent issued to Iacovangelo et al (PN. 6,587,263).**

***The reasons for rejection are set forth in the previous Office Action dated November 25, 2003.***

**5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over the patent issued to Li et al in view of the patent issued to Iacovangelo et al as applied to claim 8 above, and further in view of the patent issued to Kaitsu et al (PN. 5,774,783).**

The color deformable mirror device taught by Li et al in combination with the teachings of Iacovangelo et al as described for claim 8 above have met all the limitations of the claim with the exception that it does not teach explicitly that the reflective silver layer is deposited at 50 °C. However using low temperature deposition process to deposit silver layer on a silicon substrate is very well known in the art as demonstrated by the teachings of Kaitsu et al et al wherein a silver layer is sputtered on a silicon substrate at temperature about 20°C, (please see column 7, lines 34-40). It would then have been obvious to one skilled in the art to apply the teachings of Kaitsu et al to form the silver layer at temperature less than 50 °C for the benefit of providing a deposition process for depositing the silver layer at low temperature such as room temperature to reduce manufacturing cost.

**6. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over the patents issued to Li et al and Oyama et al as applied to claim 16 above, and further in view of the patent issued to Kaitsu et al.**

The color deformable mirror device taught by Li et al in view of the teachings of Oyama et al as described for claim 16 above have met all the limitations of the claim with the exception that they do not teach explicitly that the silver layer is formed at a temperature below 50°C. However using low temperature deposition process to deposit silver layer on a silicon substrate is very well known in the art as demonstrated by the teachings of Kaitsu et al et al wherein a silver layer is sputtered on a silicon substrate at temperature about 20°C, (please see column 7, lines 34-40). It would then have been obvious to one skilled in the art to apply the teachings of Kaitsu et al to form the silver layer at

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temperature less than 50 °C for the benefit of providing a deposition process for depositing the silver layer at low temperature such as room temperature to reduce manufacturing cost.

7. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over the patent issued to Li et al in view of the patent issued to Oyama et al as applied to claim 16 above, and further in view of the patent issued to Iacovangelo et al.

*The reasons for rejection are set forth in the previous Office Action dated November 25, 2003.*

8. Claims 25-26 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over the patent issued to Li et al in view of the patent issued to Kaitsu et al.

Li et al teaches a *color deformable mirror device* (10) having a plurality of electronically controlled *micro-mirrors* that each is comprised of a *mirror element* (16, Figure 1) with a color mirror (34). The color mirror (34) is comprised of a *mirror substrate* (22), which can be made of semiconductor material such as silicon, (please see column 6, lines 41-43), and an *optical thin film interference color coating* (24), serves as absorbing layer, formed on top of the mirror substrate, wherein a high reflectance silver layer (26) is *directly* formed on top of the silicon mirror substrate as shown in Figure 1, (please see column 6, lines 44-50).

Li et al further teaches that the optical thin film interference *color coating layer* (24), having multilayer structure design, is capable of enhancing reflection and *absorption* of light incident upon the coating, (please see column 6, lines 15-40) and in particular it includes *absorbing layers* (30 and 32, please see column 5, lines 49-51) and *transparent layer* (28) that can be formed by layer materials such as *silicon dioxide* and *silicon nitride* dielectric materials, (please see column 6, lines 55-58). The interference coating including the absorbing layers are formed over the silver layer such that the interference coating is designed to reflect red, blue or green color of light. It is implicitly true that the

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interference coating is also absorbing color of light that is not intended for reflection which implicitly including the absorption of blue light, (please see Figures 1 and 2, columns 5-6). The method of forming the color deformable mirror device is in implicitly included.

This reference has met all the limitations of the claim with the exception that it does not teaches explicitly that the silver layer is formed at temperature below 50 degree Celsius. However using low temperature deposition process to deposit silver layer on a silicon substrate is very well known in the art as demonstrated by the teachings of **Kaitsu et al** et al wherein a silver layer is sputtered on a silicon substrate at room temperature about 20°C, (please see column 7, lines 34-40). It would then have been obvious to one skilled in the art to apply the teachings of **Kaitsu et al** to form the silver layer at temperature less than 50 °C for the benefit of providing a deposition process for depositing the silver layer at low temperature such as room temperature to reduce manufacturing cost.

9. **Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over the patent issued to Li et al and Kaitsu et al as applied to claim 25 above, and further in view of the patent issued to Iacovangelo et al.**

The color deformable mirror with color absorbing interference coating deposited on a silver reflective layer taught by **Li et al** in combination with teachings of **Kaitsu et al** as described for claim 25 above has met all the limitations of the claim. **Li et al** teaches that the interference coating is formed by using *chemical vapor deposition process* (CVD) but it does not teach explicitly about the temperature used, (please see column 9). However chemical vapor deposition method is a extremely well known method in the art for forming thin film layer the temperature specifics are therefore either inherently included in the disclosure of **Li et al** or an obvious modification to one skilled in the art. Furthermore, **Iacovangelo et al** in the same field of endeavor teach thin film layers including silicon oxide and silicon nitride layer can be deposited using chemical vapor deposition method at a temperature of less than 250°

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C, (please see column 4, lines 51-56 and table B). It would then have been obvious to one skilled in the art to modify the deposition method to make the deposition at a temperature of less than 250° C for the benefit of minimize thermal expansion mismatch problem.

10. **Claims 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over the patent issued to Li et al and Kaitsu et al as applied to claim 25 above, and further in view the patent issued to Oyama et al**

The deformable mirror taught by Li et al in combination with the teachings of Kaitsu et al as described for claim 25 above have met all the limitations of the claims. These references have met all the limitations of the claims with the exception that it does not teach explicitly that the layer thickness for the absorbing layer components in the interference coating is between 700 to 750 Angstroms. However Li et al does teach that by varying the thickness of the transparent layers in the interference coating different reflection characteristics and implicitly different absorption characteristics, which in order to obtain optimum performance, can be achieved, (please see column 6, lines 27-36). Furthermore, Oyama et al in the same field of endeavor teaches an absorbing layer that is comprised of a transparent nitride film, which includes silicon nitride, with a thickness ranged between 40 to 80 nm or 400 to 800 angstroms and an oxide film consisting essentially silicon dioxide film with a thickness of between 70 to 140 nm or 700 to 1400 angstroms, (column 4 lines 23-47, column 6 lines 36-40). It would then have been obvious to one skilled in the art to apply the teachings of Oyama et al to modify the interference coating of Li et al to include the layer materials of silicon dioxide and silicon nitride with the thickness taught for the benefit of obtaining desired absorbing property for the interference coating.

With regard to claim 30, Li et al teaches that the interference coating is formed by using *chemical vapor deposition process* (CVD).

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***Response to Arguments***

11. Applicant's arguments with respect to claim 25 have been considered but are moot in view of the new ground(s) of rejection.

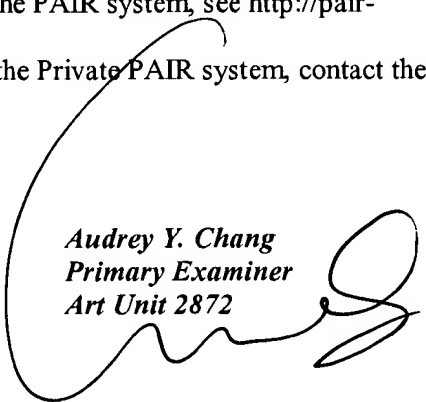
12. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "selective absorbing blue light") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Audrey Y. Chang whose telephone number is 571-272-2309. The examiner can normally be reached on Monday-Friday (8:00-4:30), alternative Mondays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn can be reached on 571-272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Audrey Y. Chang*  
*Primary Examiner*  
*Art Unit 2872*



A. Chang, Ph.D.